

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FREEDOM MORTGAGE CORPORATION,

Plaintiff

v.

JAMES S. KENT, et al.,

Defendants

Case No.: 2:19-cv-01411-APG-DJA

**Order Denying (1) Motion for
Reconsideration and (2) Objection to
Magistrate Judge’s Order**

[ECF Nos. 40, 51]

I previously granted in part the motion to dismiss filed by defendants Red Pine Trust and James Kent. ECF No. 39. The defendants now move for partial reconsideration of my decision not to dismiss plaintiff Freedom Mortgage’s declaratory relief claim. ECF No. 40. Because of that motion for reconsideration, Magistrate Judge Albregts reinstated the stay of discovery. ECF No. 50. Freedom objected to that order. ECF No. 51. I deny Trust’s motion and Freedom’s objection.

A district court “possesses the inherent procedural power to reconsider, rescind, or modify an interlocutory order for cause seen by it to be sufficient,” so long as it has jurisdiction. *City of L.A., Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001) (quotation and emphasis omitted). “Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). A district court also may reconsider its decision if “other, highly unusual, circumstances” warrant it. *Id.*

I allowed some of Freedom’s allegations and claims to survive the motion to dismiss, in part because factual questions exist and it is not clear from the record that Freedom’s claims are

1 futile. *See, e.g.*, ECF No. 39 at 17-19. Trust's motion does not present facts or law sufficient to
2 convince me that I committed clear error or that my initial decision was manifestly unjust. I
3 decline to reverse my earlier decision.

4 Magistrate Judge Albregts stayed discovery until I rule on the motion to reconsider. ECF
5 No. 50 at 3. That order is not clearly erroneous or contrary to law. LR IB 3-1(a). And, I have
6 now ruled on the motion for reconsideration, so the stay has expired. I deny Freedom's appeal of
7 the stay order.

8 I THEREFORE ORDER that the defendants' motion for reconsideration (**ECF No. 40**) is
9 **DENIED**.

10 I FURTHER ORDER that Magistrate Judge Albregts' order (**ECF No. 50**) is
11 **AFFIRMED** and the plaintiff's objection (**ECF No. 51**) is **DENIED**.

12 DATED this 23rd day of March, 2021.

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15 ANDREW P. GORDON
16 UNITED STATES DISTRICT JUDGE
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